

### REMARKS

Applicants respectfully requests entry of the amendments and remarks submitted herein. Claims 1, 9, 10, 12, 32, 35, 36, 39, 42, and 43 have been amended. Support for tissue-specific expression in cells of the intestine appears, for example, on page 3, lines 5-6; support for tissue-specific expression in intestine epithelial cells and kidney proximal tubules appears, for example, on page 5, lines 3-6, page 8, lines 20-24, and page 12, lines 1-3; support for -1 kb to +5.5 kb in claim 42 appears, for example, on page 19, lines 16-19; and support for the amendment to claim 43 appears, for example, on page 25, lines 24-29. No new matter has been added by these amendments. Reconsideration of the pending application is respectfully requested.

#### The 35 U.S.C. §112 Rejections

Claims 1, 10-12, 33, 42, and 43 stand rejected under 35 U.S.C. §112, first paragraph, as the Examiner asserted that those claim fail to comply with the written description requirement.

Without acquiescing to the Examiner's rejection, claims 1, 42, and 43 have been amended to recite SEQ ID NO:1. In view of the amendments herein, Applicants respectfully request that the rejection of claims 1, 10-12, 33, 42, and 43 under 35 U.S.C. §112, first paragraph, be withdrawn.

Claims 9, 10, 35, 39, 40, and 42 stand rejected under 35 U.S.C. §112, second paragraph, as the Examiner asserted that those claims are indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention.

Without acquiescing to the Examiner's rejection, Applicants have amended claims 9, 10, 35, 39, 40, and 42. In view of the amendments herein, Applicants respectfully request that the rejection of claims 9, 10, 35, 39, 40, and 42 under 35 U.S.C. §112, second paragraph, be withdrawn.

#### The 35 U.S.C. §102 Rejections

Claims 1, 11, 12, 36, and 41 stand rejected under 35 U.S.C. §102(b) as being anticipated by Dunbar et al.

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Without acquiescing to the Examiner's rejection, Applicants have amended claim 1 to recite "in cells of the intestine" and claim 36 to recite "in intestine epithelial cell sand kidney proximal tubules." Dunbar et al. did not achieve tissue-specific expression in the intestine with their mouse villin gene promoter. The claims as amended are not anticipated by Dunbar et al. In view of the amendments herein, Applicants respectfully request that the rejection of claims 1, 11, 12, 36, and 41 under 35 U.S.C. §102(b) be withdrawn.

CONCLUSION

Applicants respectfully request that claims 1-6, 8-12, and 32-43 be allowed. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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